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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210103
Party	Defendant Alberto Soler DBA Coki Loco and Miriam Soler
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Date	05/21/2014
Attachments	CokiColaSanctionRehear.pdf(195813 bytes)

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ALBERTO SOLER

d/b/a Coki Loco and

MIRIAM SOLER,

Applicant(s)

v.

Opposition No. **91210103**

THE COCA-COLA COMPANY,

Opposer,

_____/

I

APPLICANTS' RESPONSE TO OPPOSER'S MOTION FOR SANCTION

(Opposer once again should be ones sanction for also this here)

II

APPLICANTS' AMENDMENT FOR RECONSIDERATION

(Patagonia v. Azzulini, 109 UAPQ2d 1859 (TTAB 2014))

Applicants ALBERTO SOLER dba Coki Loco and MIRIAM SOLER (SOLER), hereby files its response to Opposer's motion for sanction (MFS) amends their motion for reconsideration (MFR) alerting/clear notice to the panel members named *Cataldo, Taylor, Greenbaum* and Interlocutory Attorney named *English*:

Based on the evidence of the record, binding federal case laws and its own precedential case of **Patagonia Inc, v. Azzulini, 109 USPQ2d 1859 (TTAB 2014)**-the Panel Memebbers ruling of February 03, 2014, *warning Applicants that judgment will be enter as sanction if noncompliance with its order -directing the*

Applicants to first request consent from Opposer to file motions before requesting permission from the Board to do so;

IS IN ERROR and requiring appropriate change-

In support of the law that mandates what everyone in this free land can do or not do, SOLER speaks out loud for those few to hear stating as follow:

OPPOSER'S MOTION FOR SANCTION

1. Opposer's intentionally in bad faith filed its motion for sanction (MFS) no matter the law and disrespecting the rules of fair process, and also pleaded non sense being frivolous why sanction.

Thus, Opposer should be the ones here that should be sanction once again always again and again disbarred for continuing to do as it's please no matter the law while the Board's panel members once again always again no matter if they do.

(A) Opposer filed the MFR in an attempt to circumvent *37 CFR 2.127(b)* now being late to reply to SOLER'S request for reconsideration.

Sanction once again.

(B) Opposer violated the safe harbor rule of *FRCP 11(c)(1)(A)* thus the Board should not consider the MFS, *Excaliber Trading v. Akai Electric, Cancellation 92026835 (Sept. 29, 2004)*, and instead should entertain its filing to impose sanction against Opposer under *FRCP 11(c)(1)(B)*.

Sanction once again clearly by law requiring the Board must do.

(C) Opposer's pleading that sanction is further warranted for SOLER never

filing the answer that was due on Feb. 28, 2014, is frivolous and pleaded in bad faith.

Opposer is quite aware that their filed *leave to amend the complaint* tolls any answer to be filed since there is no effective and legal complaint for SOLER to answer too-not yet entertained and granted by the Board for SOLER to answer within the require date yet to be order by the Board.

Sanction once again.

(D) Opposer knows very well that SOLER'S MFR is not a motion under 37 CFR 2.127(a) but a pleading to an existing motion that was entertained a ruled upon by the Board. 37 CFR 2.127(b).

Sanction once again.

Furthermore, SOLER'S timely filed MFR tolls/not yet final and ineffective the Board's order Feb. 03, 2014 legally over SOLER to trigger any violation thereto.

Sanction once again or incompetence not knowing anything about law being license attorneys of the biggest Bully of them all.

There is no hope for the Bully now no matter if they are above the law for they don't know any law.

AMENDMENT FOR RECONSIDERATION

2. The Board has no authority to impose any kind of sanction except within the jurisdiction delegated to the agency and as authorized by law. 5 USC 558(b); American Bus v. Slater Secretary of Transportation, 99-5390 (D.DC 1990)

No matter if SOLER did violated the Board's order of Feb. 03, 2014, SOLER is

not conceding or admitting violation, the Board has no authority much less any inherent power to enter judgment as sanction not being Article III Court unless there is such an rule properly regulated through the APA or an existing federal case law allowing them to do just that being just an Agency.

Since SOLER has yet to answer the complaint and why more so for there is no legal amended complaint effective for SOLER to even answer then obviously so there is no discovery rule or law yet implemented for SOLER to do or must do to even face the possibility of judgment as sanction, if not do.

The Board could only enter judgment as sanction if SOLER violates/noncompliance with any Board's order *concerning discovery* FRCP 26/37. There exists no federal law case much less any TTAB ruling that states that the Board can enter judgment as sanction not being a discovery violation.

All the Board's ruling cited by Opposer in its MFS here and the panel members in its ruling why judgment was entered in Cancellation No. 92057485-Coca Leaf, *only involved violation to discovery orders/rules*. The 2011 binding Federal Circuit Court of Appeals ruling further more sustain that judgment as sanction is only authorized for discovery violation, nothing more. *Benedict v. Super Bakery*, 665 F.3d 1263 (Fed. Cir. 2011)

With that said, SOLER also says;

The panel members of 92057485, also the ones here, did not disclose that all its cases cited for support why judgment for sanction was all about discovery violation and obviously confuse or not even cited the US Supreme Court case of

Chambers, 501 US 32 (1991) for support-that had nothing to do with this Agency or any other Agency authorities empower to do, but about Article III Courts having inherent power to sanction being delegated by Congress.

The US Supreme Court that should have been cited but wasn't-for obviously being contrary to any power by this Administrative Agency to do as it pleases upon SOLER, is **ICC v Brimson**, 154 US 447 (1894)(cited in Atlantic Richfield Company v US Department of Energy, 769 F2d 771 (Fed. Cir. 1984), observing Brimson, supra and concluding that sanction through Agency inherent powers applies to discovery violations)

Was this a clear error by the Board's panel members or intentionally so knowing so?

The panel members there and also now here completely disregarded and much worst, never even mention nor entertained their own precedent law ruling that must be follow before entering judgment as sanction being Patagonia, supra; Decided and written by just and fair man named; *Quinn, Mermelstein and Adlin*. See also, Central Mfg v. Third Millenium, Opposition 115,931 (Dec. 07, 2011) (precedent)

Was this also a clear error by the Board's panel members or intentionally so knowing so?

In conclusion;

The Board's Panel Members named *Cataldo, Taylor, Greenbaum* and also the IA named *English*, order of Feb 03, 2014, requiring SOLER to follow the unjust

directives to first request consent from Opposer to file any motion, or face judgment as sanction for noncompliance;

IS IN **ERROR** and not just to highest Administrative degree but also-a Total Miscarriage of Justice for we live in the land all calls free.

Thus, reconsideration must be granted for further review pursuant to Patagonia

If not so then obviously corruptly so.

RELIEF

3. WHEREFORE , for SOLER says being free no matter who outside of him;

Do has you please but remember to follow the laws over you no matter Opposer being above the law.

Filed this 21st day of May 2014 through the ESSTA electronic submission system.

Submitted,

/Alberto Soler/

ALBERTO SOLER

Since this response and amendment relates back to pleadings/ orders enter by the Board when my mother was still a co/applicant of the application, she will then happily also submit her signature if so require to do so- But not because the Board's DKO ruling enter today being also against the rule of/and law precedential case Central Garden v. Doskocil, 108 USPQ2d 1134 (TTAB 2013), citing Amazon v. Wax, and also having 2 of the 3 just and fair panel members from Patagonia deciding its decision.

Submitted,

/Miriam Soler/

MIRIAM SOLER

CERTIFICATE OF SERVICE

SOLERS HEREBY certify that a true and correct copy was furnished via email attachment this 21st day of May 2014-to Opposer's attorney of recorded consented email address.

/ALBERTO SOLER/

/MIRIAM SOLER/

